



DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA-2013-0027]

Addendum to the Memorandum of Understanding with the Department of Energy (August 28, 1992); Oak Ridge, Tennessee Properties

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Notice.

SUMMARY: This is a notice of an addendum to the interagency Memorandum of Understanding (MOU) between the U.S. Department of Labor and the U.S. Department of Energy (DOE). The MOU establishes specific interagency procedures for the transfer of occupational safety and health coverage for privatized facilities, properties, and operations from DOE to OSHA and state agencies acting under state plans approved by OSHA.

EFFECTIVE DATE: The effective date of the Addendum to the Memorandum of Understanding is [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Information regarding this notice is available from the following sources:

Press inquiries: Contact Mr. Frank Meilinger, Director, OSHA Office of Communications, U.S. Department of Labor, 200 Constitution Avenue, NW., Room N-3647, Washington, DC 20210; telephone: (202) 693-1999; email: Meilinger.francis2@dol.gov.

General and technical information: Contact Mr. David W. Johnson, Director, Office of Technical Programs and Coordination Activities, Directorate of Technical Support and Emergency Management, U.S. Department of Labor, Occupational Safety and Health Administration, Room N-3655, 200 Constitution Avenue, NW, Washington, DC 20210; phone: (202) 693-2110; email: johnson.david.w@dol.gov.

Copies of this Federal Register notice. Electronic copies of this Federal Register notice are available at <http://www.regulations.gov>. This Federal Register notice, as well as news releases and other relevant information, also are available at OSHA's webpage at <http://www.osha.gov>.

SUPPLEMENTARY INFORMATION:

I. Background

DOE and OSHA of the U.S. Department of Labor entered into a MOU on August 10, 1992, delineating regulatory authority over the occupational safety and health of contractor employees at DOE government-owned or leased, contractor-operated (GOCO) facilities. In general, the MOU recognizes that DOE exercises statutory authority under section 161(f) of the Atomic Energy Act of 1954, as amended, (42 U.S.C. 2201(f)), relating to the occupational safety and health of private-sector employees at these facilities.

Section 4(b)(1) of the OSH Act of 1970, 29 U.S.C. 653(b)(1), exempts from OSHA authority working conditions with respect to which other federal agencies have exercised statutory authority to prescribe or enforce standards or regulations affecting occupational safety or health. The 1992 MOU acknowledges DOE's extensive program for the regulation of contractor health and safety, which requires contractor compliance with all

OSHA standards as well as additional requirements prescribed by DOE, and concludes with an agreement by the agencies that the provisions of the OSH Act will not apply to GOCO sites for which DOE has exercised its authority to regulate occupational safety and health under the Atomic Energy Act.

In light of DOE's policy emphasis on privatization activities, OSHA and DOE entered into a second MOU on July 25, 2000, that establishes interagency procedures to address regulatory authority for occupational safety and health at specified privatized facilities and operations on sites formerly controlled by DOE. The 2000 MOU covers facilities and operations on lands no longer controlled by DOE, which are not conducting activities for or on behalf of DOE and where there is no likelihood that any employee exposure to radiation from DOE sources would be 25 millirems per year (mrem/yr) or more.

II. Notice of Transfer

In a letter dated October 18, 2013, DOE requested that OSHA or, as appropriate, the Tennessee Occupational Safety and Health Administration (TOSHA) accept occupational safety and health regulatory authority over employees at the East Tennessee Technology Park in Oak Ridge, Tennessee at two parcels of land pursuant to the MOU on Safety and Health Enforcement at Privatized Facilities and Operations dated July 25, 2000. Other facilities and properties at the East Tennessee Technology Park were transferred to TOSHA jurisdiction under this MOU by Federal Register notices (74 FR 120 (January 2, 2009), 74 FR 39977 (August 10, 2009), and 76 FR 80408 (December 23, 2011)).

The parcels of land located at the East Tennessee Technology Park within the city of Oak Ridge, Tennessee transferred to the Community Reuse Organization of East Tennessee (CROET) are described as follows:

- Land Parcel ED-9 (approximately 13 acres) consisting of two tracts of land, ED-9A (7.06 acres) and ED-9B (5.02 acres), separated by a roadway, and a third tract, ED-9C (0.98 acre), consisting of approximately 900 linear feet of paved road and adjacent right of way; and
- Land Parcel ED-10 (also approximately 13 acres) consists of grassy fields and infrastructure. No buildings are included in this transfer.

OSHA's Regional Office in Atlanta, Georgia, working with the OSHA Nashville Area Office and TOSHA, determined that TOSHA is willing to accept authority over the occupational safety and health of public-sector and private-sector employees at the two parcels of land at the East Tennessee Technology Park in Oak Ridge, Tennessee that were transferred by deed to CROET. In a letter from OSHA to DOE dated March 24, 2014, OSHA stated that TOSHA is satisfied with DOE assurances that (1) there is no likelihood that any employee at facilities in the vicinity of these land parcels will be exposed to radiation levels that will be 25 millirems per year (mrem/yr) or more, and; (2) transfer of authority to TOSHA is free from regulatory gaps and does not diminish the safety and health protection of the employees.

Accordingly, TOSHA accepts and maintains health and safety regulatory authority over employees in the vicinity of Land Parcels ED-9 and ED-10.

III. Authority and Signature

David Michaels, Ph.D., MPH, Assistant Secretary of Labor for Occupational Safety and Health, 200 Constitution Avenue, NW., Washington, DC 20210, authorized the preparation of this notice. This Federal Register notice provides public notice and serves as an addendum to the 1992 OSHA / DOE MOU. Accordingly, the Agency is issuing this notice pursuant to Section 8(g)(2) of the Occupational Health and Safety Act of 1970 (29 U.S.C. 657(g)(2)), Secretary of Labor's Order No. 1-2012 (77 FR 3912, Jan. 25, 2012).

Signed at Washington, DC, on May 16, 2014.

David Michaels,
Assistant Secretary of Labor for Occupational Safety and Health.

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